

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**HORTON HOMES, INC.,**

**Plaintiff,**

**V.**

**LARUE BANDY, MARIE BANDY,  
PATRICK PRITCHETT, WILLIAM  
SHANER, ELSIE FONDREN  
AVERETTE, WILLIAM CRUTHIRDS,  
and SHERRIE CRUTHIRDS,**

## Defendants.

**CIVIL ACTION NO. 2:07-cv-506-MEF**

## JURY TRIAL DEMANDED

**ANSWER**

COME NOW the Defendants in the above-styled cause and in answer to the Complaint heretofore filed state as follows:

1. Defendants admit paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 18, 26, 27, 28, 29, 32, 43, 44, 45, 48, 59, 60, 61, 64, 77, 78, 79., 82, 93, 94, 95, and 98.
2. Defendants admit paragraphs 30, 46, 62, 80, and 96 wherein it is alleged that H & S Homes and Horton Homes is listed as Respondents to arbitrations filed by the Defendants.
3. Defendants deny each and every other allegation of the Complaint and demand strict proof thereof.

## Affirmative Defenses

1. Horton Homes, Inc., is estopped from claiming it is not a party to the arbitration agreements in question.

2. H & S Homes, LLC is the alter ego of Horton Homes, Inc., or acts as a mere instrumentality of Horton Homes, Inc., and therefore Horton Homes, Inc., is a party to the arbitration agreements.

3. The Shaner arbitration has been concluded awaiting a final decision by the arbitrator. Horton Homes, Inc., participated in the trial, through counsel, and has waived any objection to arbitration of the claims of William Shaner.

ATTORNEYS FOR DEFENDANTS:

/s/ Randy Myers  
RANDY MYERS (MYE003)

/s/ Frank H. Hawthorne, Jr.  
FRANK H. HAWTHORNE, JR. (HAW012)

OF COUNSEL:  
Hawthorne & Myers, LLC  
322 Alabama Street  
Montgomery, AL 36102  
(334) 269-5010  
(334) 834-0080

OF COUNSEL:  
Michael S. Harper  
P.O. Box 780608  
Tallahassee, AL 36078  
(334) 283-6855  
(334) 283-6858 Fax

**JURY DEMAND**

Defendants hereby demand a jury trial on all issues so triable.

/s/ Frank H. Hawthorne, Jr.  
OF COUNSEL

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon all counsel of record by placing a copy of same in the United States Mail, first class postage prepaid, and properly addressed, this the 28<sup>th</sup> day of June, 2007:

Sydney F. Frazier, Jr., Esq.  
Cabaniss, Johnston, Gardner, Dumas & O'Neal, LLP  
2001 Park Place North, Suite 700  
Birmingham, AL 35203

James L. Paul, Esq.  
Thomas C. Grant, Esq.  
Chamberlin, Hrdlicka, White, Williams & Martin  
191 Peachtree Street, N.E., 34<sup>th</sup> Floor  
Atlanta, GA 30303

/s/ Frank H. Hawthorne, Jr.  
OF COUNSEL